

**Senate Bill No. 1678**

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Passed the Senate      August 17, 2004

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*Secretary of the Senate*

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Passed the Assembly      August 12, 2004

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to add Section 340.35 to the Code of Civil Procedure, relating to statutes of limitation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1678, Dunn. Statutes of limitation: damages: sexual abuse of a minor.

Existing law sets forth the statutes of limitation for various civil actions, as specified.

This bill would revive a cause of action, provided an action is brought before January 1, 2006, for the sexual abuse of a minor if any complaint, information, or indictment was filed in a criminal case based upon that abuse but the criminal case was dismissed or overturned pursuant to a specified decision of the United States Supreme Court holding that the revival of the criminal action after the criminal statute of limitations has expired constitutes an unconstitutional ex post facto law, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 340.35 is added to the Code of Civil Procedure, to read:

340.35. (a) This section shall apply if both of the following conditions are met:

(1) A complaint, information, or indictment was filed in a criminal case initiated pursuant to subdivision (f), (g), or (h) of Section 803 of the Penal Code.

(2) The case was dismissed or overturned pursuant to the United States Supreme Court's decision in *Stogner v. California* (2003) 156 L.Ed.2d 544.

(b) Unless a longer period is prescribed for a specific action, any action for damages against an individual for committing an act of childhood sexual abuse shall be commenced before January 1, 2006.

(c) This section shall apply to any action commenced before, on, or after the effective date of this section, including any action otherwise barred by a limitation of time in effect prior to the effective date of this section, thereby reviving those causes of



action that had lapsed or expired under the law in effect prior to the effective date of this section.

(d) This section shall not apply to any of the following:

(1) Any claim against a person or entity other than the individual against whom a complaint, information, or indictment was filed as described in paragraph (1) of subdivision (a).

(2) Any claim that has been litigated to finality on the merits in any court of competent jurisdiction prior to the effective date of this section. For purposes of this section, termination of a prior action on the basis of the statute of limitations does not constitute a claim that has been “litigated to finality on the merits.”

(3) Any written, compromised settlement agreement that has been entered into between a plaintiff and a defendant, if the plaintiff was represented by an attorney who was admitted to practice law in this state at the time of the settlement, and the plaintiff signed the agreement.

(e) Any restitution paid by the defendant to the victim shall be credited against any judgment, award, or settlement obtained pursuant to this section. Any judgment, award, or settlement obtained pursuant to an action under this section shall be subject to Section 13966.01 of the Government Code.



Approved \_\_\_\_\_, 2004

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*Governor*

